



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

May 26, 2010

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Ms. Lanna Kang, Owner  
eCallPlus  
1523 N. Oakmont Drive  
Vernon Hills, Illinois 60061

**Re: File No. EB-09-SE-173**

Dear Ms. Kang:

This is an official **CITATION**, issued to eCallPlus, a reseller of wireless services, pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> for violating the digital wireless handset hearing aid compatibility status report filing requirements set forth in section 20.19(i)(1) of the Commission’s Rules (“Rules”).<sup>2</sup> As explained below, future violations of the Commission’s rules in this regard may subject eCall to monetary forfeitures.

In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of individuals with hearing disabilities to access digital wireless telecommunications.<sup>3</sup> The Commission established technical standards that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes.<sup>4</sup> The Commission further established, for each standard, deadlines by which manufacturers and service providers were required to offer specified numbers or percentages of digital wireless handsets per air interface<sup>5</sup> that are compliant with the relevant

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<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> 47 C.F.R. § 20.19(i)(1).

<sup>3</sup> The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, codified at Section 710(b)(2)(C) of the Communications Act of 1934, as amended, 47 U.S.C. § 610(b)(2)(C). See *Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753, 16787 ¶ 89 (2003); Erratum, 18 FCC Rcd 18047 (2003) (“*Hearing Aid Compatibility Order*”); Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005).

<sup>4</sup> See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16777 ¶ 56; 47 C.F.R. § 20.19(b)(1), (2).

<sup>5</sup> The term “air interface” refers to the technical protocol that ensures compatibility between mobile radio service equipment, such as handsets, and the service provider’s base stations. Currently, the leading air interfaces include Code Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), Integrated Digital Enhanced Network (iDEN) and Wideband Code Division Multiple Access (WCDMA) a/k/a Universal Mobile Telecommunications System (UMTS).

standard if they did not come under the *de minimis* exception.<sup>6</sup> In February 2008, as part of a comprehensive reconsideration of the effectiveness of the hearing aid compatibility rules, the Commission released an order that, among other things, adopted new compatible handset deployment benchmarks beginning in 2008.<sup>7</sup>

Of primary relevance, the Commission also adopted reporting requirements to ensure that it could monitor the availability of these handsets and to provide valuable information to the public concerning the technical testing and commercial availability of hearing aid-compatible handsets, including on the Internet.<sup>8</sup> The Commission initially required manufacturers and digital wireless service providers to report every six months on efforts toward compliance with the hearing aid compatibility requirements for the first three years of implementation (May 17, 2004, November 17, 2004, May 17, 2005, November 17, 2005, May 17, 2006 and November 17, 2006), and then annually thereafter through the fifth year of implementation (November 19, 2007 and November 17, 2008).<sup>9</sup> In its 2008 *Hearing Aid Compatibility First Report and Order*, the Commission extended these reporting requirements with certain modifications on an open ended basis, beginning January 15, 2009.<sup>10</sup> The Commission also made clear that these reporting requirements apply to manufacturers and service providers that fit within the *de minimis* exception.<sup>11</sup>

eCallPlus, a reseller of wireless service, did not file a hearing aid compatibility status report prior to the January 15, 2009 deadline. The Wireless Telecommunications Bureau referred eCallPlus's apparent violation of the hearing aid compatibility reporting requirement to the Enforcement Bureau for possible enforcement action. On October 20, 2009, the Enforcement Bureau's Spectrum Enforcement Division issued eCallPlus a Letter of Inquiry ("LOI").<sup>12</sup> eCallPlus responded to the LOI on November 19, 2009.<sup>13</sup> In its response, eCallPlus stated that it did not file the hearing aid compatibility status report by January 15, 2009 because it is not a wireless telephone provider or a Mobile Virtual Network Operator ("MVNO").<sup>14</sup> A review of eCallPlus's website, however, indicates that it resells prepaid wireless cards and services and that it

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<sup>6</sup> See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780 ¶ 65; 47 C.F.R. §§ 20.19(c), (d). The *de minimis* exception provides that manufacturers or mobile service providers that offer two or fewer digital wireless handset models per air interface are exempt from the hearing aid compatibility deployment requirements, and manufacturers or mobile service providers that offer three digital wireless handset models per air interface must offer at least one compliant model. 47 C.F.R. § 20.19(e).

<sup>7</sup> See *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008) ("*Hearing Aid Compatibility First Report and Order*"), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

<sup>8</sup> See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3443 ¶ 91.

<sup>9</sup> *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16787 ¶ 89; see also *Wireless Telecommunications Bureau Announces Hearing Aid Compatibility Reporting Dates for Wireless Carriers and Handset Manufacturers*, Public Notice, 19 FCC Rcd 4097 (Wireless Tel. Bur. 2004).

<sup>10</sup> See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3445-46 ¶¶ 97-99.

<sup>11</sup> *Id.* ¶ 99.

<sup>12</sup> See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau to Lanna Kang, Owner, eCallPlus (October 20, 2009).

<sup>13</sup> See Email response to Letter of Inquiry (LOI) from Lanna Kang, Owner eCallPlus, to Samantha Peoples, Program Analyst, Spectrum Enforcement Division, Enforcement Bureau (November 11, 2009).

<sup>14</sup> *Id.* at 2.

offers one wireless handset model.<sup>15</sup> According to the Commission's records, eCallPlus also has not filed its hearing aid compatibility status report that was due January 15, 2010.

We find that, as a reseller of wireless services, eCallPlus is a service provider subject to the wireless handset hearing aid compatibility requirements. eCallPlus resells prepaid wireless cards and services. The Commission has made clear that the hearing aid compatibility requirements apply to service providers such as resellers.<sup>16</sup> Thus, eCallPlus is a service provider subject to the wireless handset hearing aid compatibility requirements.<sup>17</sup> Under section 20.19(i)(1) of the Rules, service providers, including *de minimis* providers, must file hearing aid compatibility status reports initially on January 15, 2009, and annually thereafter.<sup>18</sup> These reports are necessary to enable the Commission to perform its enforcement function and evaluate whether eCallPlus is in compliance with Commission mandates that were adopted to facilitate the accessibility of hearing aid-compatible wireless handsets. These reports also provide valuable information to the public concerning the technical testing and commercial availability of hearing aid-compatible handsets. eCallPlus did not file either the January 15, 2009 report or the January 15, 2010 report. Accordingly, eCallPlus violated the hearing aid compatibility status report filing requirements set forth in section 20.19(i)(1) of the Rules.

**eCallPlus should take prompt action to ensure that it does not continue to violate the Commission's wireless hearing aid compatibility rules. If, after receipt of this Citation, eCallPlus violates the Communications Act or the Commission's rules or orders in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$150,000 for each such violation or each day of a continuing violation.**<sup>19</sup>

eCallPlus may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. eCallPlus's response should specify the actions that it is taking to ensure that it does not violate the Commission's rules governing the filing of hearing aid compatibility status reports in the future.

The nearest Commission field office appears to be the Chicago District Office, in Park Ridge, Illinois. Please call Samantha Peoples at 202-418-1101 if eCall wishes to schedule a personal interview. eCallPlus should schedule any interview to take place within 30 days of the

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<sup>15</sup> See [www.ecallplus.com](http://www.ecallplus.com). Specifically, eCallPlus's website indicates that "eCallPlus.com has been providing state-of-the-art nationwide prepaid cellular service since October of 2000." See [www.ecallplus.com/contact.html](http://www.ecallplus.com/contact.html). eCallPlus offers two prepaid wireless service plans on the Verizon (CDMA) network, H2O Wireless and H2O Plus, and three prepaid plans on the AT&T (GSM) network, O2 Wireless, O2 Plus and O2 Unlimited. In addition, eCallPlus's website indicates that it offers one GSM handset model, the LG C1500.

<sup>16</sup> See e.g., *Hearing Compatibility First Report and Order*, 23 FCC Rcd at 3424 ¶ 46 (concluding that a three-month extension of deadlines for meeting the handset deployment benchmarks is appropriate with regard to "service providers that are not Tier I nationwide providers, including regional and smaller providers, such as Tier II and Tier III carriers, and other service providers such as resellers and MVNOs.").

<sup>17</sup> See *7-Eleven, Inc.*, Citation, 25 FCC Rcd 344, 346 (Enf. Bur., Spectrum Enf. Div. 2010).

<sup>18</sup> 47 C.F.R. § 20.19(i)(1).

<sup>19</sup> See 47 C.F.R. § 1.80(b)(3).

date of this letter. eCallPlus should send any written statement within 30 days of the date of this letter to:

Samantha Peoples  
Spectrum Enforcement Division  
Enforcement Bureau  
Re: EB-09-SE-173  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Rm. 3-A267  
Washington, D.C. 20554

Under the Privacy Act of 1974,<sup>20</sup> we are informing eCallPlus that the Commission's staff will use all relevant material information before it, including information that eCallPlus discloses in its interview or written statement, to determine what, if any, enforcement action is required to ensure eCallPlus's compliance with the Communications Act and the Commission's rules and orders.

The knowing and willful making of any false statement, or the concealment of any material fact, in response to this citation is punishable by fine or imprisonment.<sup>21</sup>

We thank eCallPlus in advance for its anticipated cooperation.

Sincerely,

Kathryn Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

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<sup>20</sup> See 5 U.S.C. § 552a(e)(3).

<sup>21</sup> See 18 U.S.C. § 1001.